

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

SHERI S. SMITH,

Plaintiff,

v.

Case No. 2:17-cv-950
JUDGE GEORGE C. SMITH
Magistrate Judge Vascura

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

ORDER

This case is before the Court to consider the *Report and Recommendation* issued by the Magistrate Judge on November 16, 2018. The Magistrate Judge recommended that Plaintiff's Statement of Errors be overruled and the decision of the Commissioner of Social Security be affirmed. (*See Report and Recommendation*, Doc. 13). This matter is now before the Court on Plaintiff's Objections to the Magistrate Judge's *Report and Recommendation*. (Doc. 14). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff raises a single objection to the ALJ's and Magistrate Judge's findings: that the residual functional capacity ("RFC") is not supported by substantial evidence. Specifically, Plaintiff argues that the ALJ improperly discounted opinion evidence that supported a more restrictive RFC.

Plaintiff's objection presents the same issue already presented to, and carefully considered by, the Magistrate Judge in the *Report and Recommendation*. Plaintiff has not presented any new evidence or argument other than what was previously presented in her Statement of Errors.

Plaintiff merely disagrees with the ALJ and Magistrate Judge's conclusions, specifically with respect to the relative weight of the opinions. As the Magistrate Judge correctly recognized,

Plaintiff's argument that discredited opinions support a more restrictive RFC does not persuade the undersigned that remand is necessary in view of the countervailing record evidence upon which the ALJ relied. Rather, as set forth above, "there is a zone of choice within which the decision-makers can go either way, without interference by the courts." *Blakely*, 581 F.3d at 406; *Her v. Comm'r of Soc. Sec.*, 203 F.3d 388, 389-90 (6th Cir. 1999) ("Even if the evidence could also support another conclusion, the decision of the Administrative Law Judge must stand if the evidence could reasonably support the conclusion reached.").

(Doc. 13 at 8). The Court agrees with the Magistrate Judge's conclusions regarding the ALJ's RFC assessment.

The Court has carefully considered Plaintiff's objection, but finds that the decision of the ALJ was supported by substantial evidence as acknowledged in detail in the Magistrate Judge's *Report and Recommendation*. Therefore, for the reasons stated in the well-reasoned *Report and Recommendation*, this Court finds that Plaintiff's objection is without merit.

Based on the aforementioned and the detailed *Report and Recommendation*, the Court finds that Plaintiff's objection has been thoroughly considered and is hereby **OVERRULED**. Accordingly, the *Report and Recommendation*, Document 13, is **ADOPTED** and **AFFIRMED**. Plaintiff's Statement of Errors is hereby **OVERRULED**, and the decision of the Commissioner of Social Security is **AFFIRMED**.

The Clerk shall remove Documents 13 and 14 from the Court's pending motions list, and enter final judgment in favor of Defendant, the Commissioner of Social Security.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT